IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:	)
	)
Kim, et al.	) Confirmation No. 1039
	)
Serial No.: 09/766,473	) Examiner: Ailes, Benjamin A.
	) Group Art Unit: 2442
Filed: January 19, 2001	)
	)
For: **System and Method for Managing**	) Docket No.: 050906-1050
Server Configurations	)
	)

REPLY BRIEF

This brief is filed in reply to the Examiner's Answer, which was mailed August 19, 2009.

Response to Examiner's Answer

The rejection sections on pp. 3-17 of the Examiner's Answer appear to generally recapitulate the prior positions taken by the Examiner in the final Office Action. Appellant continues to disagree with the Examiner's positions as to all claim rejections under appeal, and Appellant's Appeal Brief sets forth substantive reasons why the references of record do not properly teach the claimed features. Appellant addresses herein selected points that were introduced in the Examiner's Answer.

A fundamental point of disagreement between Appellant and the Examiner relates to whether or not *Wall* teaches an application program configuration parameter that defines, at least in part: "a quantity of a resource on the server available to the particular customer of a web hosting provider" (claim 12); "a quantity of a resource on the network server available to a particular customer of the web hosting provider" (claim 18); "a quantity of a resource on the network server that are made available to a particular user of the network server" (claim 22); and "a quantity of a resource on the server that is available to the particular user of the server" (claim 33).

In the Appeal Brief, Appellant provided detailed explanations of why the sections of *Wall*

relied upon in the final Office Action did not teach this claimed feature. In the Examiner's

Answer, the body of the rejection (p. 4) merely repeats the same rejection from the Final Office

Action. However, the Response to Arguments section of the Examiner's Answer (pp. 17-18)

interprets the reference in a new way, referring to a different section of *Wall* as teaching this

feature.

Appellant submits that such a change in position amounts to a new ground of rejection,

although the Examiner did not identify it is as such. Although Appellant is entitled to reopen

prosecution to properly address this new ground, Appellant chooses not to exercise this right,

and instead chooses to move forward with the appeal. Appellant now addresses the newly-

relied-upon section of *Wall* introduced in the Examiner's Answer.

On p. 18-19 of the Answer, the Examiner alleges that para. 0027-0028 teach the claimed

"application program configuration parameter", as follows:

> The claims have been given the broadest reasonable interpretation
> consistent with the specification. The examiner submits that Wall teaches
> within the claimed aspect of a "quantity of a resource." Wall teaches, in
> paragraphs 0027-0028 on page 3, ***the administrator of a web page, the***
> ***particular customer of a web hosting provider, is given the***
> ***capability to designate the amount of web documents needed for the***
> ***web site being maintained.*** The administrator can easily make changes
> to a web site's content by ***adding additional web pages or deleting***
> ***existing pages*** from the current web site. The web documents are stored
> upon the server farm (page 2, paragraph 0019, lines 2-5) and therefore
> require a set amount of resources with respect to memory space. The
> administrator is therefore given full control with respect to how much
> memory space is needed on the server farm with respect to how many
> web documents are required by the administrator for the web site. A set
> of resources must be provided to handle the serving of the web site to
> requesting clients (pp. 3-4, paragraph 0029).
> (Examiner's Answer, pp. 17-18, emphasis added.)

Appellant disagrees with the Examiner's characterization of *Wall* and thus with the Examiner's

conclusion that *Wall* teaches the claimed feature.

The relied-upon portions do teach that the site administrator can change page content

and can add or delete pages. Appellant also agrees that such pages are stored on the server

farm, and acknowledges that as such, the pages use a certain amount of disk and/or memory space at a particular time. In addition, Appellant appreciates that these modify/add/delete actions affect the quantity of disk and/or memory space in use at any one time. However, a teaching that particular actions taken by a site administrator <u>affect</u> the quantity of a server resource does not amount to a teaching that the site administrator <u>defines</u> anything. That is, affecting a quantity is not the same as defining a quantity.

Appellant nonetheless assumes (for the sake of argument) that affecting a quantity of a resource is the same as definining a quantity of a resource. Even so, a teaching that particular actions taken by a site administrator affect the quantity of a server resource <u>in use at a particular time</u> does not amount to a teaching that the site administrator defines a quantity of a server resource that is <u>available to the administrator</u>, since at any point in the time the disk and/or memory space in use may be less than what is defined to be available. For example, the current set of pages may use only 10 MB of disk storage, while the quantity that is defined to be available to the administrator could be 50 MB. In summary, Appellant submits that the Examiner's interpretation of *Wall* goes beyond the explicit and even implicit teachings of the reference.

Respectfully submitted,

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